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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

13 DANIEL TUROCY, et al., Individually) Case No. 8:15-cv-01343-DOC-KES
14 and on Behalf of All Others Similarly) (**Consolidated**)
15 Situated,
16 Plaintiffs,
17 vs.
18 EL POLLO LOCO HOLDINGS, INC.,
19 et al.,
20 Defendants.
21 CLASS ACTION
FED. R. CIV. P. 26(f) JOINT REPORT
AND DISCOVERY PLAN
DATE: Oct. 30, 2017
TIME: 8:30 a.m.
JUDGE: Hon. David O. Carter
CTRM: 9D

1 Pursuant to Federal Rule of Civil Procedure 26(f), Local Civil Rule 26-1, and
 2 the Court's Order Setting Schedule Conference, counsel for Lead Plaintiffs Ron
 3 Huston, Peter Kim, Robert W. Kegley, Sr., Dr. Richard J. Levy and Sammy Tanner
 4 ("Plaintiffs") and counsel for Defendants El Pollo Loco Holdings, Inc. ("El Pollo
 5 Loco" or the "Company"), Stephen J. Sather, Laurance Roberts, Edward J. Valle and
 6 Trimaran Pollo Partners, L.L.C. ("Trimaran Pollo"), Trimaran Capital Partners
 7 ("Trimaran Capital"), and Freeman Spogli & Co ("Freeman Spogli") (collectively,
 8 "Defendants") held a telephonic conference on August 16, 2017 and September 7,
 9 2017 regarding the matters identified herein, and respectfully submit this joint report
 10 and discovery plan.

11 **I. Factual Summary of the Case**

12 This is a securities fraud class action purportedly on behalf of all purchasers of
 13 El Pollo Loco securities between May 15, 2015 and August 13, 2015, inclusive (the
 14 "Class Period"), seeking remedies pursuant to §§10(b), 20(a) and 20(A) of the
 15 Securities Exchange Act of 1934. The named Defendants are El Pollo Loco, the
 16 Company's CEO Stephen J. Sather, the Company's CFO Laurance Roberts, the
 17 Company's CMO Edward Valle, Trimaran Pollo, Trimaran Capital and Freeman
 18 Spogli.

19 **Plaintiffs' Position**

20 Plaintiffs allege that in February 2015, the Company began raising its menu
 21 prices. One way it increased prices was by removing \$5 combo meals from its menu,
 22 even though the combo meals were a core component of the Company's "QSR+"
 23 positioning and strategy of offering lower priced, higher quality food. A result of the
 24 higher priced menu was lower customer traffic and lower same store sales growth. On
 25 May 12, 2015, two days before Defendants announced the Company's 1Q 2015
 26 earnings results, El Pollo Loco's senior management made a presentation to the
 27 Company's board of directors. Plaintiffs allege that the presentation informed the
 28 board that, among other things, (a) menu prices increased, (b) the increase in menu

1 prices negatively impacted store traffic and sales, (c) the Company's value score had
2 fallen and moved El Pollo Loco out of its QSR+ position, (d) 2Q 2015 same store
3 sales growth was projected to be 2.5% – below the original forecast, and (e) the
4 Company would reinstitute \$5 menu items to bring back value and lower prices. The
5 information in the May 12, 2015 board presentation was not revealed to the public.

6 Plaintiffs allege that on May 14, 2015, the Company announced lower than
7 expected same store sales growth for 1Q 2015. During the May 14, 2015 conference
8 call, Defendants informed the public that the timing of New Year's Eve, changes to
9 below 500 calorie menu items and marketing missteps were the cause of decreased
10 customer traffic and lower than expected same store sales growth. Defendants also
11 stated that the Company's value scores remained high and that it was on track to
12 report full year 2015 system-wide same store sales growth between 3% and 5%, with
13 2Q 2015 falling in the lower end of that range. Defendants also denied that higher
14 prices had an impact on 1Q or 2Q results up to that date.

15 Plaintiffs allege that on May 19, 2015, seven days after the board presentation, a
16 number of insiders, including the controlling shareholder defendants and defendants
17 Sather and Valle sold over \$132 million of El Pollo Loco stock. Defendants have not
18 sold any El Pollo Loco stock subsequent to the May 19, 2015 sale.

19 Plaintiffs allege that on June 10, 2015, Sather presented on behalf of the
20 Company at William Blair's Annual Growth Stock Conference. During the
21 conference, Sather stated that the Company's average per person spend was above
22 QSRs but well below the fast casual restaurants. He stated that the Company wanted
23 to always maintain that value.

24 Plaintiffs allege that on August 13, 2015, after the stock market closed, the
25 Company issued a press release and hosted a conference call to discuss 2Q 2015
26 financial results. The Company announced that 2Q 2015 system-wide same store
27 sales growth was only 1.3%. Sather stated that "second-quarter results were impacted
28 by the combination of higher-priced offerings and a reduction of [the] value portion of

1 [its] menu.” He also announced that in the 3Q 2015 the Company “relaunched the \$5
 2 Combo menu which will remain in our restaurants full time to reinforce our value
 3 offering. This allows us to return to our winning QSR+ strategy of introducing
 4 exciting, new, premium Mexican entrees . . . to a base of underlying value frequency
 5 drivers like our \$5 combos.”

6 Plaintiffs allege that the price of El Pollo Loco stock price closed at \$18.36 on
 7 August 13, 2015 before the Company announced its 2Q 2015 financial results. After
 8 the 2Q 2015 financial results were disclosed, El Pollo Loco stock price closed at
 9 \$14.56 per share on August 14, 2015.

10 Plaintiffs claim that the statements Defendants made on May 14, 2015 and June
 11 10, 2015 were knowingly or recklessly false and misleading and caused artificial
 12 inflation in El Pollo Loco securities during the Class Period. Plaintiffs also allege that
 13 Defendants’ May 19, 2015 stock sales were made while Defendants were aware of
 14 material, non-public information that evidenced the false and misleading nature of
 15 their May 14, 2015 statements. Plaintiffs allege that the artificial inflation was
 16 released from El Pollo Loco securities at the end of the Class Period when the public
 17 learned the truth behind the reasons for EL Pollo Loco’s customer traffic same store
 18 sales growth declines and the Company’s departure from the QSR+ value position.

19 **Summary of Defendants’ Position**

20 Defendants deny each of Plaintiffs’ allegations as set forth in their Answer. As
 21 an initial matter, Defendants assert that none of the statements at issue were false
 22 when made and that any purported omissions by Defendants did not render
 23 Defendants’ statements materially misleading. Furthermore, Defendants assert they
 24 did not know the alleged misstatements or omissions were false or misleading when
 25 made, nor were Defendants reckless as to the veracity of those statements. Finally,
 26 Defendants contend the price of El Pollo Loco’s common stock declined for reasons
 27 other than the revelation of a prior false or misleading statement.

28

II. Principal Issues in the Case

The principal issues in the case will be whether Plaintiffs can certify a class and prove that alleged statements made on May 14, 2015 and June 10, 2015 were material misrepresentations of fact, made with scienter, on which Plaintiffs relied, that proximately caused economic loss in connection with the purchase or sale of security.

III. Adding Parties and Amending the Pleadings

At this stage, the parties do not currently intend to add parties or amend the pleadings. But given the nature of federal securities fraud litigations and the fact that neither party has been provided any discovery, the parties believe it would be appropriate if they are afforded an opportunity to review the discovery before deciding whether parties should be added or the pleadings should be amended. Any such amendment would be subject to the requirements set forth in Federal Rule of Civil Procedure 15(a)(2) and the parties reserve the right to oppose any amendment.

IV. Issues That May Be Determined by Motion

Plaintiffs intend to move for class certification under Federal Rule of Civil Procedure 23. Defendants anticipate moving for summary judgement under Federal Rule of Civil Procedure 56. The parties' proposed cut-off dates by which these motions must be filed are set forth in Exhibit A.

V. Settlement Discussions

At this time, the parties have not engaged in any substantive settlement discussions. In accordance with Local Rules 16-15 through 16-15.9, the parties have discussed, and agree, that any settlement discussions should be through private mediation.

VI. Discovery Plan

A. Initial Disclosures

The parties will exchange initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) 30 days from the filing of this report. *See Exhibit A.*

1 **B. Expert Disclosures**

2 Expert disclosures under Federal Rule of Civil Procedure 26(a)(2) shall be
3 made in accordance with the dates agreed upon by the parties in the proposed schedule
4 attached as Exhibit A.

5 **C. Phasing of Discovery**

6 As set forth in Exhibit A, the parties stipulate that fact discovery ends on
7 September 4, 2018, and expert discovery ends on February 4, 2019.

8 **VII. Trial Estimate**

9 Plaintiffs have requested a jury trial. The parties estimate trial would take seven
10 to ten court days.

11 **VIII. Other Case Management Issues**

12 The parties have taken reasonable measures to preserve potentially discoverable
13 data from alteration or destruction in the ordinary course of business or otherwise.
14 The parties anticipate they will reach an agreement on a protocol concerning the
15 discovery of ESI, which will include the form of production of such data.

16 Given the complexity of the case, Plaintiffs anticipate they will require more
17 than 10 fact depositions to develop the evidence necessary to prove their case.
18 Without waiving any rights to petition the court for such relief or to oppose any such
19 relief, the parties agree to meet and confer regarding this matter as the case proceeds.

20 **IX. Proposed Pretrial Dates**

21 The parties jointly propose the schedule reflected in Exhibit A.

22 DATED: October 16, 2017

ROBBINS GELLER RUDMAN
& DOWD LLP
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LAURIE L. LARGENT

/s/ Ryan A. Llorens**
RYAN A. LLORENS

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11 ** pursuant to Local Rule 5-4.3.4(a)(2), I, Ryan A. Llorens, attest that all other
12 signatories listed, and on whose behalf the filing is submitted, concur in the filing's
content and have authorized the filing.

EXHIBIT A

Action	Date
Defendants' Answer	September 4, 2017
Exchange of Rule FRCP 26 Initial Disclosures	November 15, 2017
Class Certification Motion	December 8, 2017
Opposition to Class Certification Motion	March 8, 2018
Reply in support of Class Certification Motion	April 24, 2018
Substantial completion of document production	March 5, 2018
Deadline to join additional parties and amend pleadings	July 20, 2018
Deadline to service written discovery	July 20, 2018
Last day to commence depositions	August 24, 2018
Plaintiffs provide subject matter of expert testimony	August 20, 2018
Defendants provide subject matter of expert testimony	August 27, 2018
Fact Discovery Cutoff	September 4, 2018
Deadline for Opening Expert Reports	October 4, 2018
Deadline for Opposing Expert Reports	November 5, 2018
Deadline for Rebuttal Expert Reports	December 5, 2018
Expert Discovery Cutoff	February 4, 2019
Deadline to file Dispositive Motion(s)	March 5, 2019
Opposition(s) to Dispositive Motion(s)	April 4, 2019
Reply in support of Dispositive Motion(s)	April 24, 2019
Hearing on dispositive motions (motion cutoff)	May 13, 2019
Deadline for objection(s) to proposed expert testimony under FRE 702	May 30, 2019 conference
Opposition to any objection(s) to proposed expert testimony under FRE 702	June 28, 2019
Reply in support of any objection(s) to proposed expert testimony under FRE 702	July 15, 2019
Final Pretrial Conference	July 29, 2019
Trial Date	August 20, 2019

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 16, 2017.

s/ RYAN A. LLORENS
RYAN A. LLORENS

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Manual Notice List

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- (No manual recipients)